

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States District Court
Southern District of Texas
FILED

APR 12 2001

Michael N. Milby
Clerk of Court

RAQUEL O. RODRIGUEZ, as legal guardian
of JOSE L. RODRIGUEZ,

Plaintiff,

Case No. B-96-cv-177

vs.

RIDDELL, INC.; and ALL AMERICAN
SPORTS CORPORATION, d/b/a
RIDDELL/ALL AMERICAN,

Defendants.

PLAINTIFF'S RENEWED MOTIONS IN LIMINE

COMES NOW the Plaintiff, by and through her counsel of record, and hereby renews the Motions in Limine, Docket Nos. 126-138 and 159-161, filed on or about February 26, 1999, and March 7, 1999, prior to the original trial of this matter, and requests orders of this Court granting Plaintiff's relief requested in each Motion. For the convenience of the Court, a brief summary of each Motion, including the grounds, relief sought, and the Court's disposition thereof is listed below. Said Motions, including any and all supporting documents thereto, are incorporated herein by this reference as if set forth in full.

Docket No. 126

Motion No. 1

Title: Plaintiffs' Motion in Limine Concerning Defendants' Intended Use of Epidemiological and Statistical Evidence.

Grounds: Defendants' epidemiological and/or statistical evidence is inherently unreliable, misleading and confusing to the jury, and an undue waste of the Court's time.

Disposition: Granted.

Docket No. 127

Motion No. 2

Title: Plaintiffs' Motion to Limit Testimony of Peter David Halstead (Accident Reconstruction)

Grounds: Mr. Halstead's December 14, 1998 drop testing at the Leo Aguilar Stadium is irrelevant, not conducted under substantially similar circumstances, and is inadmissible under F.R.E. 403.

Disposition: Granted.

Docket No. 128

Motion No. 3

Title: Plaintiffs' Motion to Limit the Testimony of F. M. Fennegan, M.D. (Mechanism of Injury)

Grounds: Dr. Fennegan acknowledged he was speculating as to the mechanism of injury; such evidence is inadmissible under F.R.E. 403.

Disposition: Denied.

Docket No. 129

Motion No. 4

Title: Plaintiffs' Motion to Limit Cumulative Testimony of Arnulfo R. Garza-Vale, M.D., Ayub K. Ommaya, M.D., and Thomas A. Gennarelli, M.D.

Grounds: Cumulative evidence on same issue and F.R.E. 403.

Disposition: Denied, but Defendants must not present cumulative testimony.

Docket No. 130
Motion No. 5
Title: Plaintiffs' Motion to Exclude Testimony of Thomas A. Gennarelli, M.D.
 (Cause of Injury)

Grounds: No testimony to a reasonable degree of medical certainty; barred by F.R.E. 702 and F.R.E. 403.

Disposition: Granted.

Docket No. 131
Motion No. 6
Title: Plaintiffs' Motion to Limit Testimony of Arnulfo R. Garza-Vale, M.D.
 (Pre-Existing Medical Condition)

Grounds: No testimony to a reasonable degree of medical certainty; barred by F.R.E. 702 and F.R.E. 403.

Disposition: Denied.

Docket No. 132
Motion No. 7
Title: Plaintiffs' Motion to Limit Testimony of Ayub K. Ommaya, M.D.
 (Mechanism of Injury)

Grounds: Speculative, not based upon facts of the type reasonably relied upon for purposes of medical diagnoses, and F.R.E. 403.

Disposition: Denied.

Docket No. 133
Motion No. 8
Title: Plaintiffs' Motion to Limit Testimony of Arnulfo R. Garza-Vale, M.D.
 (Life Expectancy)

Grounds: Speculative; F.R.E. 703 and F.R.E. 403.

Disposition: Granted, pursuant to stipulation.

Docket No. 134
Motion No. 9
Title: Plaintiffs' Motion to Limit Testimony of James McElhaney, Ph.D.
(Pre-Existing Medical Condition, Medical Diagnosis and Medical Causation)

Grounds: Witness not qualified to render such opinions; F.R.E. 702 and F.R.E. 403.

Disposition: Granted as to medical diagnosis, medical causation and medical condition.

Docket No. 135
Motion No. 10
Title: Plaintiffs' Motion to Limit Testimony of Peter David Halstead
(Medical Diagnosis and Medical Causation)

Grounds: Witness not qualified to render such opinions; F.R.E. 702 and F.R.E. 403.

Disposition: Granted as to medical diagnosis, medical causation and medical condition.

Docket No. 136
Motion No. 11
Title: Plaintiffs' Motion to Limit Testimony of Nelson Kraemer
(Medical Diagnosis and Medical Causation)

Grounds: Witness not qualified to render such opinions; F.R.E. 702 and F.R.E. 403.

Disposition: Granted, pursuant to stipulation.

Docket No. 138
Motion No. 12
Title: Plaintiffs' Motion to Limit Testimony of Daniel Kult
(Medical Diagnosis and Medical Causation)

Grounds: Witness not qualified to render such opinions; F.R.E. 702 and F.R.E. 403.

Disposition: Granted, pursuant to stipulation.

Docket No. 137
Motion No. 13
Title: Plaintiffs' Motion in Limine to Exclude Evidence of the Consumer Product Safety Commission's Denial of a Petition to Issue a Football Helmet Safety Standard

Grounds: Hearsay; relevancy; and F.R.E. 403.

Disposition: Under advisement; no evidence offered by Defendants.

Motion No. 14 **Omitted.**

Docket No. 159
Motion No. 15
Title: Plaintiffs' Motion to Limit Testimony of Lawrence Thibault, Sc.D.

Grounds: Unqualified to render opinion regarding medical diagnosis or causation; testimony based upon excluded pathology report; witness's work has not been peer reviewed and is not reliable.

Disposition: Granted – cannot testify based upon excluded pathology report.

Docket No. 160
Motion No. 16
Title: Plaintiffs' Motion to Limit Testimony of Ayub K. Ommaya, M.D.
(Age of Subdural Hematoma)

Grounds: Testimony based upon pathology report excluded by the Court.

Disposition: Granted – cannot testify based upon excluded pathology report.

Docket No. 161
Motion No. 17
Title: Plaintiffs' Motion to Exclude Testimony and Data Regarding Cold Testing

Grounds: Defendants failed to produce any data on cold testing in pretrial discovery.

Disposition: Under advisement.

DATED this 12th day of April, 2001.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of April, 2001, a true and correct copy of the foregoing document was served by first-class mail, postage prepaid, and addressed to; by fax transmission to; by overnight delivery to; or by personally delivering to or leaving with a person in charge of the office as indicated below:

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